

### **Remarks/Arguments**

This RCE-creating Amendment has been prepared and filed in response to the Final Office Action dated March 28, 2008 regarding the above-identified U.S. Patent Application. Specifically, this response has been filed to create an appropriate RCE Patent Application based upon (a) the amendments proposed in this response, and (b) the remarks and arguments presented herein.

In the last, Final Office Action, the Examiner (a) rejected claims 1, 2, 4, 7, 8, 10, 12, 13 and 15-17, inclusive, under 35 U.S.C. § 103(a) as being unpatentable over Barrett et al., U.S. Patent No. 5,647,056, in view of U.S. Patent Application Publication No. 2003/0204950 of Chou et al. in further view of U.S. Patent No. 6,522,420 B1 to Chadez et al., and (b) rejected claims 3, 5, 6, 9, 11 and 14 under 35 U.S.C. § 103(a) as being unpatentable over the same proposed combination of three references in further view of what the Examiner terms as applicant's admitted prior art.

Applicant has carefully reviewed the Examiner's Action and all three of the cited references, along with the Examiner's extensive and detailed comments about his view regarding the application of the prior art to applicant's claims, and by the present RCE Amendment proposes cancellation without prejudice of claims 16 and 17, and current amending of claims 1, 8 and 13, which amending is believed now to place all claims remaining in application in conditions for allowance.

Cancellation of claims 16 and 17 is not an acknowledgement of the correctness of the Examiner's rejections of these claims. Nor are the proposed current amendments in claims 1, 8 and 13 concessions that the Examiner's rejections of these claims are sustainable. Rather, on carefully reviewing the disclosure content in the present patent

application in relation to the cited and applied prior art references, and recognizing intuitively that applicant's invention, at a relatively high level, sits in clear distinction in relation to the teachings and suggestions of the cited and applied references, applicant has introduced into independent claims 1, 8 and 13 a limitation regarding requests and downloads involved in the recitations of those claims which clearly describe a behavior, and indeed an important behavior, of applicant's claimed invention which is not found in any way in any of the cited and applied prior art.

More specifically, and as is made clearly evident by the specification and drawings as presented in this application, applicant's methodology involves what can best be described as a "single-event" downloading practice and structure. This practice and structure is based upon a *single* request for a downloading operation, and a *single-event* delivery download which takes place in response to that single-event request. The single-event practice of the invention results in the common-time delivery of both a driver and appropriate device configuration information.

Such common-time, single-event behavior does not occur in the cited and applied prior art, and the Examiner's own Action characterizations of the behaviors of the cited references, backed up by Action-contained citations to specific language portions in those references, confirms this distinguishing nature of the cited and applied art. For example, in relation to the main reference, Barrett et al., discussions therein regarding (a) driver downloading and (b) device configuration sit, because they are indeed separate events, in two, distinctly separated portions of the Barrett et al. specification – column 51, lines 31-33, and column 51, lines 36-43 – the text portions pointed to by the Examiner. In Chou et al., one finds exactly the same kind of descriptive separation – highlighting the non-

single-event nature of the relevant, Chou et al. activities.

Chadez et al. does not mend this deficiency in the art.

An important consequence of this, applicant's claimed, "single-event" behavior is that applicant's methodology is far simpler and more efficient in nature than anything proposed or suggested by the cited and applied references which are based upon differentiating, multiple-event driver-downloading and device-configuring activities. Thus, applicant's invention presents a classically recognized patentable advance in the cited and applied prior art – a patentable advance based upon a simplification *which is not contemplated in the prior art*, but rather contemplated by applicant to offers an efficiency improvement in that art.

In this context, and as the Examiner will observe, appropriate language has been introduced into the texts of independent claims 1, 8 and 13 to point out this important single-event behavior of applicants invention -- a behavior which is clearly presented in the disclosure in this case.

For these reasons, and with entry of the present Amendment, all claims now presented in this application clearly distinguish applicant's claimed invention from anything shown or suggested in the cited and applied prior art references, and are, accordingly, patentable.

Therefore favorable reconsideration of this application, and early allowance now of all claims presented therein on the basis of entry of this RCE Amendment, are respectfully solicited.

**Provisional Request for Extension of time in Which to Respond**

Should this response be deemed to be untimely, Applicants hereby request an extension of time under 37 C.F.R. § 1.136. A PTO form 2038 Credit Card authorization in the amount of \$810.00 is enclosed to pay the RCE filing fee. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any over-payment to Account No. 502592.

Customer Number

Respectfully Submitted,

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## CERTIFICATE OF EXPRESS MAILING

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Date of Deposit - June 9, 2008

I hereby certify that the attached PRELIMINARY AMENDMENT IN SUPPORT OF RCE under 37 C.F.R. § 1.114 and PTO-2038 credit card authorization in the amount of \$810.00 is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to:

MS RCE  
Commissioner for Patents  
P.O. Box 1450  
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